

BEFORE THE DIVISION OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE TENTATIVE  
DECISION TO APPROVE A MINING  
AND RECLAMATION PLAN FOR  
STAR STONE QUARRIES, INC.,  
HEBER QUARRY, WASATCH  
COUNTY, UTAH

FINDINGS, CONCLUSIONS  
AND ORDER

CAUSE NO. M/051/001

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On November 20, 2000, the Division of Oil, Gas and Mining ("Division") held an informal hearing concerning the Division's Notice of Tentative Decision to approve a Mining and Reclamation Plan for Star Stone Quarries Inc.'s Heber Quarry.

Presiding: Lowell P. Braxton, Director  
Division of Oil, Gas and Mining

Petitioners: (See Attachment A)

Applicant: Star Stone Quarries, Inc. represented by Lon Thomas, President

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner and Applicant in connection with this informal hearing, and on information in the files of the Division.

#### THE INFORMAL HEARING

The informal hearing consisted of two parts: discussions off the record wherein the objectives and procedures of the Utah Minerals Regularly program were explained and the Applicant described the proposed operations for the Heber Quarry, followed by individual testimony held on the record providing an opportunity for the general public and other interested parties to comment on the proposed mining and reclamation plan.

Concerns relative to the Notice of Tentative Approval for the Heber Quarry raised on the record at this informal hearing are:

- Hours for mining operations. Objections were raised over nighttime mining and trucking from the Quarry.
- Highway safety. Security of the load, highway safety due to increased truck traffic.
- Compliance record of the operation. Expansion of the operation beyond the five acre size allowed by the Applicant's Small Mining Notice of Intent. Failure of the Applicant to comply with a requirement to have a permit for Large Mining Operations prior to expanding operations beyond five acres of disturbance.
- Failure to comply (as noted in the preceding) was a willful violation of the Utah Mined Land Reclamation Act. Fines in the Order of \$7,500,000 should be assessed.
- Inadequate notice of previous adjudicative actions relative to this operation was given by the Division of Oil, Gas and Mining.
- Adequacy of the reclamation bond. Proposed bond is inadequate to complete the reclamation contemplated in the Plan contemplated in the Notice of Tentative Approval.
- Failure of the Mining and Reclamation Plan to address topsoil salvage and placement. The Plan does not discuss topsoil placement for all reclaimed areas.
- Mining operations have pushed or side cast materials onto undisturbed lands.
- Failure to address contemporaneous reclamation. Certain portions of the Heber Quarry should be reclaimed when mining of these areas is no longer contemplated.
- The quarry destroys esthetic values that have attracted nearby residents to the area. The beauty, solitude and view is disrupted by the proposed operation and the potential for additional changes to the mining operation frightens residents.
- The operation is noisy. The occasional blasting operations and the noise of loading operations are incompatible with the lifestyle of nearby residents.
- Water quality. The proposed operation plan does not recognize juxtaposed potable water sources.



- Property disputes with contiguous landowners. The mining operations have encroached upon contiguous lands, or have damaged or obliterated fence lines.
- Noncompliance with county ordinances. No approval from the Wasatch County planning Commission for the proposed operation.
- Boundaries of the proposed operation are not clearly defined

## **FINDINGS OF FACT**

1. By letters dated October 5th, 6th, 7th, 10th, 12th, and 17th, 2000, the following petitioners, (see Attachment B), requested an "informal hearing" to discuss issues of concern relative to the Notice of Tentative Approval of the Heber Quarry permit application.
2. Notice of the informal hearing was properly given.
3. The Heber Quarry is defined as the operation described in the Notice of Intention to Conduct Small Mining Operations filed with the Division of Oil, Gas and Mining, and all mining operations conducted on this site including those expansion operations conducted under the direction and control of Lon Thomas subsequent to filing of the Small Mining Notice of Intention.
4. Applicant is permitted to conduct Small Mining Operations under the auspices of the Utah Minerals Regulatory Program, and its Small Mining Notice of Intent file No. S/051/001.
5. Applicant has exceeded the disturbance allowed under the auspices of the Utah Minerals Regulatory Program's Small Mining regulations and has filed for a permit to conduct Large Mining operations at the Heber Quarry.
6. The Division's Minerals Regulatory Program has the authority, after review of a Mining and Reclamation plan, to establish the form and the amount of a reclamation surety based on forward cost escalation of third party contract costs.
7. A stenotype recording of the hearing proceedings was converted to type and certified to be a true and correct transcription of the conference by Kellie Mecham, a Registered Professional Reporter, employed by Thacker+Company, LLC, Salt Lake City.

## CONCLUSIONS OF LAW

1. The Utah Mined Land Reclamation Act requires a Large Mining Permit for mining operations of greater than five acres of surface disturbance.

2. Based on representation of Wasatch County Planner, Al Mickelsen, Applicant does not have the consent and necessary licenses from Wasatch County to conduct business at the Heber Quarry.

And UCA 40-8-17 reads:

**"Responsibility of operator to comply with applicable rules, regulations and ordinances --  
Inspections.**

- (1) The approval of a notice of intention shall not relieve the operator from responsibility to comply with all other applicable statutes, rules, regulations, and ordinances, including but not limited to, those applying to safety, air and water pollution, and public liability and property damage."

3. Petitioner's concerns regarding noise, operating hours, compatibility of the quarry with surrounding land uses, and community esthetic values are the province of the Wasatch County Planning and Zoning Department and are not relevant under the Utah Mined Land Reclamation Act and this permitting action.
4. Off-permit highway safety, is not addressed in the Utah Mined Land Reclamation Act, and is not relevant to this permitting action.
5. Petitioner's concerns regarding the compliance record of the Applicant, specifically those concerns addressing expansion of the Small Mining Operation beyond five acres of disturbance are not relevant to a hearing dedicated to review of a Notice of Tentative Approval for a large mining operation.
6. Petitioner's concerns relative to property disputes should not be adjudicated under the Utah Mined Land Reclamation Act unless these concerns are limited to expansion of mining and reclamation operations beyond the boundary of an established permit.



7. By not having published and publically reviewed protocols for warning residents prior to conducting blasting operations, Applicant does not meet the requirements of 40-8-12 (3) which reads:
- "The objectives of mined land reclamation are:**
- (3) to minimize or prevent future hazards to public safety and welfare."**
8. The amount of the reclamation bond proposed in the Notice of Tentative Approval for the Heber Quarry is adequate to reclaim the mining-related disturbances in the proposed Large Mining Reclamation Plan.
9. Topsoil salvage is a requirement of the Minerals Regulatory Program.
10. Variances to topsoil salvage may be granted for specific portions of a permit area upon proper demonstration of need.
11. Contemporaneous reclamation at the Heber Quarry is not compatible with the operations plan for bench mining, given the relatively small footprint of the quarry.
12. The Division's Minerals Regulatory Program has the authority at UCA 40-8-12 (2) to "minimize or prevent present and future on-site or off-site environmental degradation caused by mining operations to the ecologic and hydrologic regimes and to meet other pertinent state and federal regulations regarding air and water quality standards and health and safety criteria...."

## **ORDER**

The Notice of Intent to Conduct Large Mining Operations containing the Mining and Reclamation Plan for the Heber Quarry is approved subject to the following conditions:

- A. Within 30 days of this Order the Applicant shall post with the Divisions Minerals Regulatory Program the \$68,000 reclamation surety established by the Division to meet the reclamation requirements for the disturbed acreage published in the September 14, 2000, Tentative Decision to approve a Mining and Reclamation Plan for the Heber Quarry.

- B. Within 30 days of this Order the Applicant, under the supervision of the Division, shall establish permit area boundary for the Heber Quarry, and mark this boundary with metal fence posts. The established area for this permit shall include all areas that were the subject of the Division's September 14, 2000, Tentative Decision to approve a Mining and Reclamation Plan for the Heber Quarry.
- C. Within 30 days of this Order the Applicant shall develop a blasting warning protocol which after approval by the Division will become an amendment to the Mining and Reclamation Plan. This warning protocol shall adequately advise nearby residents of the Applicant's intent to blast within the Heber Quarry.
- D. Within 60 days of this Order the Applicant will publish a notice of its intent to conduct a meeting at a specified time and place to review and describe the blasting protocol with the interested public.
- E. Within 90 days of this Order the Division shall review the Mining and Reclamation Plan to ensure off-site sedimentation control is adequate to meet the needs of 40-8-12(2). Any modifications to the Mining and Reclamation Plan resulting from this review shall be considered an amendment to the Mining and Reclamation Plan.
- F. Within 30 days of this Order the Applicant shall schedule a meeting with the Wasatch County Planning and Zoning Department, to determine what activities are necessary to achieve compliance with Wasatch County's ordinances and requirements. Applicant shall provide advance written notice to the Division of Oil, Gas and Mining's Minerals Regulatory Program of the date, time and place of its meeting with the Wasatch County Planning and Zoning Department.

Failure of the Applicant to comply with any of the above permit conditions shall constitute an action subject to enforcement under the Minerals Regulatory Program. By approving the permit with conditions the Division does not waive its rights to enforce violations of the Minerals Regulatory Program that may have occurred prior to the conditioned approval and subsequent to the conditioned approval.



## APPEAL

Any party to this Informal Hearing may appeal this decision by requesting a formal hearing before the Board of Oil, Gas and Mining and following procedures to request such a hearing as enumerated at R647-5-106.17; R641-104-100.133; R641-104-200; and R641-105-100.

SO DETERMINED AND ORDERED this 20th day of December, 2000.



Lowell P. Braxton, Director  
Division of Oil, Gas and Mining  
State of Utah

Attachments: "A" - Petitioners/Participants;  
"B" - Written Protests  
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Star Stone Quarries, Inc.  
Heber Quarry - M/051/001  
Informal Hearing - November 20, 2000

Attachment "A" - Protestors and Participants in Hearing

\*Mr. & Mrs. Lewis W. Chappell  
932 Lake Creek Way  
Heber City, Utah 84032-9621

\*Peter & Beverly McDermott  
7584 Ballinshire North Drive  
Indianapolis, Indiana 46254

\*Kyle & Valorie Cummings  
1023 Pole Drive  
Heber City, Utah 84032-9617

\*Glade & Karren Weight  
932 Pole Drive  
Heber City, Utah 84032

\*Brian & Kellee Felsch  
90 River Road  
Midway, Utah 84049-6841

\*Bob and Jill Bills  
982 Pole Drive  
Heber City, Utah 84032-9616

\*Quinn & Teri Rich  
985 Lake Creek Way  
Heber City, Utah 84032-9621

\*Chad & Kris Richardson  
1025 Lake Creek Way  
Heber City, Utah 84032

\*Dee and Debbie Eggett  
742 Pole Drive  
Heber City, Utah 84032-9614

\*Scott and Stefene Cook  
856 Pole Drive  
Heber City, Utah 84032

\*Patrick McGowan  
889 Pole Drive  
Heber City, Utah 84032-9615

\*Valorie Willoughby  
1020 Pole Drive  
Heber City, Utah 84032-9616

\*Kay F. Schultz  
3980 South 2280 East  
Salt Lake City, Utah 84124  
EMAIL: schrk@xmission.com

\*\*Steve and Kim Hertz  
893 Lake Creek Way  
Heber City, Utah 84032

\*\*Cody Mecham  
1093 East Main Canyon Road  
Wallsburg, Utah 84082

\* and \*\*\*Marvin V. (Pete) Peterson  
982 Lake Creek Way  
Heber City, Utah 84032-9621

\* and \*\*\*Robert A. & Dixie Fuller  
640 Pole Drive  
Heber City, Utah 84032

\* and \*\*\*Dr. Paul W. & Marilyn Broadbent  
782 Lake Creek Way  
Heber City, Utah 84032-9618

\* and \*\*\*Don E. Burns  
Box 923  
Midway, Utah 84049

\* and \*\*\*Barry & Rebecca Berkin  
842 Lake Creek Way  
Heber City, Utah 84032

\* and \*\*\*Mike & Elizabeth Lehner  
700 Pole Drive  
Heber City, Utah 84032-9614

\* and \*\*\*Joel & Cynthia Sedgwick  
PO Box 563  
Heber City, Utah 84032-0563



\*\*\*Logan Hunter  
Hunter Management Corporation  
551 East State Road  
American Fork, Utah 84003

\*\*\*Ray and Bonnie Huffaker  
526 Pole Drive  
Heber City, Utah 84032

\* and \*\*\* Al Mickelsen  
Wasatch County Planner  
25 North Main Street  
Heber City, Utah 84032

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\*Petitioners - requesting a hearing  
\*\* Attended the Informal Hearing  
\*\*\* Spoke on Record

**Star Stone Quarries, Inc.**  
**Heber Quarry - M/051/001**  
**Informal Hearing - November 20, 2000**

Attachment "B" (Written Protests)

Mr. & Mrs. Lewis W. Chappell  
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Peter & Beverly McDermott  
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Salt Lake City, Utah 84124

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Logan Hunter  
Hunter Management Corporation  
551 East State Road  
American Fork, Utah 84003

Ray and Bonnie Huffaker  
526 Pole Drive  
Heber City, Utah 84032

Al Mickelsen  
Wasatch County Planner  
25 North Main Street  
Heber City, Utah 84032



## CERTIFICATE OF MAILING

I certify that I caused a true and correct copy of the Findings, Conclusions and Order for Star Stone Quarries, Inc.'s Heber Quarry to be sent via first class mail, postage prepaid, the 20<sup>th</sup> day of December, 2000 to:

### CERTIFIED RETURN RECEIPT

Z 228 355 108

Lon Thomas

Star Stone Quarries, Inc.

4040 South 300 West

Salt Lake City, Utah 84107

Mr. & Mrs. Lewis W. Chappell

932 Lake Creek Way

Heber City, Utah 84032-9621

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Indianapolis, Indiana 46254

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Al Mickelsen  
Wasatch County Planner  
25 North Main Street  
Heber City, Utah 84032

  
\_\_\_\_\_  
Joelle Burns, Secretary

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JB

DOGM

M/051/0012

12/20/00

Order

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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1. ☐ Addressee's Address  
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## 3. Article Addressed to:

LON THOMAS

STAR STONE QUARRIES INC

4040 S 300 W

SALT LAKE CITY UT 84107 m

## 4a. Article Number

Z 228 355 108

## 4b. Service Type

- ☐ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

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12/20/00

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Lon Thomas

## 6. Signature: (Addressee or Agent)

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OF  
OIL GAS & MINING  
1594 W NORTH TEMPLE STE 1210  
BOX 145801  
SALT LAKE CITY UT 84114-5801**

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OIL, GAS AND MINING**

**DEC 22 2000**

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